

EX. N-1

Concession Letters in Refund Suits

Letter to Counsel When Amount of Overpayment Has Been Computed

Re:

Dear Mr./Mrs./Miss/Ms. [Name]::

This refers to the above-entitled suit(s) for refund of  
\_\_\_\_\_ taxes for the year(s) \_\_\_\_\_.

This is to advise you that a concession 1/ has been approved  
on behalf of the Attorney General as to the [following issues:]  
[issue(s) of whether] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Accordingly, the Internal Revenue Service has been  
authorized and directed to schedule [an] overpayment(s) of  
\$\_\_\_\_\_ in tax, \$\_\_\_\_\_ in interest paid and  
\$\_\_\_\_\_ in penalties, plus interest according to law.  
[There is enclosed a copy of the recomputation prepared by (our  
recomputation specialist) (the Internal Revenue Service).] The  
overpayment(s) [is] [are] the amount(s) plaintiff(s) would have  
received (other than costs) had [he] [she] [it] [they] prevailed  
in this litigation on the issue(s) which [is] [are] being  
conceded. Subject to the final paragraph of this letter, the  
refund check(s) representing the overpayment(s) and statutory  
interest will be sent by the Internal Revenue Service to this  
office for delivery to you.

[In accordance with your telephone conversation on  
\_\_\_\_\_ with our trial attorney, \_\_\_\_\_, there are  
(also) enclosed an original and one copy (each) of (a)  
stipulation(s) for dismissal with prejudice, each party to bear  
its own costs including any attorneys fees or other expenses of  
this litigation. Please execute the original(s) and return (it)  
(them) to this office. We will hold the stipulation(s) until  
receipt of the refund check(s) and will file the stipulation(s)

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1/ This concession letter is to be used when a case is totally conceded. When a partial concession  
has been approved, this letter will have to be modified. For example, a partial concession  
normally will be reflected in a stipulation dismissing or resolving the issue, and in many cases the  
refund will not be issued until the remaining issues have been resolved.

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with the court, returning (an) executed (copy) (copies) to you,  
at the same time that the check(s) (is) (are) mailed to you.

OR

[There are (also) enclosed an original and one copy [each]  
of (a) stipulation(s) for entry of judgment. Please execute the  
original(s) and return [it] [them] to this office for filing.  
We will request the court to forward to the parties [a copy]  
[copies] of the judgment(s) when [it] [they] [is] [are] entered.]

Please note that under Section 6402 of the Internal Revenue  
Code, the overpayment(s) and statutory interest resulting from  
this concession may be credited against certain liabilities of  
the taxpayer(s), including liability for an internal revenue tax.

Sincerely yours,

[NAME OF ASSISTANT ATTORNEY GENERAL]  
Assistant Attorney General  
Tax Division

By:

[NAME OF CHIEF OF SECTION]  
Chief, \_\_\_\_\_ Section

Enclosures

[April 1995]

EX. N-3

Concession Letters in Refund Suits

First Letter to Counsel When Amount of Overpayment **Has Not** Been Computed

Re:

\_\_\_\_\_

Dear Mr./Mrs./Miss/Ms. [Name]:

This refers to the above-entitled suit(s) for refund of \_\_\_\_\_ taxes for the year(s) \_\_\_\_\_.

This is to advise you that a concession<sup>2/2/</sup> has been approved on behalf of the Attorney General as to the [following issues:] [issue(s) of whether] \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

Accordingly, the Internal Revenue Service has been authorized and directed to schedule [an] overpayment(s) of such tax, interest paid and penalties as will be computed to be due under the issue(s) which [is] [are] being conceded, plus interest according to law. In other words, the overpayment(s) will be in the amount(s) plaintiff(s) would have received (other than costs) had [he] [she] [it] [they] prevailed in this litigation on the conceded issue(s). The amount of recovery demanded in the [complaint(s)] however, is not controlling, but is subject to recomputation.

The recomputation when prepared will be forwarded to you by this office for your review. [At that time, in accordance with your telephone conversation on \_\_\_\_\_ with our trial attorney, \_\_\_\_\_, we also will forward (a) stipulation(s) for dismissal with prejudice, each party to bear its own costs including any attorneys fees or other expenses of this litigation.] OR [At that time, we also will forward (a) proposed stipulation(s) for entry of judgment in plaintiff('s) (s') favor in the appropriate amounts of tax, interest paid and

\_\_\_\_\_

<sup>2/</sup> This concession letter is to be used when a case is totally conceded. When a partial concession has been approved, this letter will have to be modified. For example, a partial concession normally will be reflected in a stipulation dismissing or resolving the issue, and in many cases the refund will not be issued until the remaining issues have been resolved.

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penalties, plus interest thereon according to law.]

The refund check(s) representing the overpayment(s) and statutory interest will be sent by the Internal Revenue Service to this office for delivery to you. Please note that under Section 6402 of the Internal Revenue Code, the overpayment(s) and statutory interest resulting from this concession may be credited against certain liabilities of the taxpayer(s), including liability for an internal revenue tax.

Sincerely yours,

[NAME OF ASSISTANT ATTORNEY GENERAL]  
Assistant Attorney General  
Tax Division

By:

[NAME OF CHIEF OF SECTION]  
Chief, \_\_\_\_\_ Section

[April 1995]

Concession Letters in Refund Suits  
Second Letter to Counsel When Amount of Overpayment Had **Not Been**  
**Previously Computed**

Re:

\_\_\_\_\_  
Your ref: CC:

Dear Mr./Mrs./Miss/Ms. [Name]:

We enclose a copy of a recomputation which reflects that (an) overpayment(s) of \$\_\_\_\_\_ in tax, \$\_\_\_\_\_ in interest paid and \$\_\_\_\_\_ in penalties (is) (are) due to plaintiff(s) in accordance with our letter of \_\_\_\_\_. Subject to the final paragraph of this letter, the refund check(s) representing the overpayment(s) and statutory interest will be sent by the Internal Revenue Service to this office for delivery to you.

[There also are enclosed an original and one copy (each) of (a) stipulation(s) for dismissal with prejudice. Please execute the original(s) and return (it) (them) to this office. We will hold the stipulation(s) until receipt of the refund check(s) and will file the stipulation(s) with the court, returning (an) executed (copy) (copies) to you, at the same time the check(s) (is) (are) mailed to you.

OR

[There are also enclosed an original and one copy (each) of (a) stipulation(s) for entry of judgment. Please execute the original(s) and return (it) (them) to this office for filing. We will request the court to forward to the parties (a copy) (copies) of the judgment(s) when (it) (they) (is) (are) entered.]

Please note under Section 6402 of the Internal Revenue Code, the overpayment(s) and statutory interest resulting from this concession may be credited against certain outstanding liabilities of the taxpayer(s), including liability for an internal revenue tax.

Sincerely yours,

[NAME OF ASSISTANT ATTORNEY GENERAL]  
Assistant Attorney General  
Tax Division

By:

[NAME OF CHIEF OF SECTION]  
Chief, \_\_\_\_\_ Section

Enclosures

[April 1995]

EX. N-6

Concession Letters in Refund Suits  
Letter to [District] [Chief] Counsel Where Amount of Overpayment  
Is Known

Re:

\_\_\_\_\_  
Your ref: CC:

Dear Mr./Mrs./Miss/Ms. [Name]:

There is enclosed a copy of our letter of this date advising counsel for plaintiff(s) of the approval of a concession in the above-entitled case(s) of the [following issues:] [issue(s) of whether] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Accordingly, we have authorized the [Service Center] [District Director] to issue a refund of \$\_\_\_\_\_ in tax, \$\_\_\_\_\_ in interest paid, and \$\_\_\_\_\_ in penalties, plus statutory interest, subject to the provisions of Section 6402 of the Internal Revenue Code. There is enclosed a copy of Form M-4457.

[Plaintiff(s) [(has) (have) made] [(is) (are) likely to make] a claim for litigation costs under Section 7430 of the Internal Revenue Code. Please forward an analysis of the facts and law on this issue on or before (20 days hence) \_\_\_\_\_.]

[The administrative files will be returned to you upon final disposition of any claim for litigation costs pursuant to Section 7430.] [Your administrative files are transmitted herewith. Please return them to us with your analysis of the facts and law on the Section 7430 issue.] [Your administrative files are returned herewith.]

Sincerely yours,

[NAME OF ASSISTANT ATTORNEY GENERAL]  
Assistant Attorney General  
Tax Division

By:

[NAME OF CHIEF OF SECTION]  
Chief, \_\_\_\_\_ Section

Enclosures

[April 1995]

Concession Letters in Refund Suits

Letter to [District] [Chief] Counsel Where Amount of Overpayment Will Be Computed by IRS

Re:

\_\_\_\_\_  
Your ref: CC:

Dear Mr./Mrs./Miss/Ms. [Name]:

There is enclosed a copy of our letter of this date advising counsel for plaintiff(s) of the approval of a concession in the above-entitled case(s) of the [following issues:] [issue(s) of whether]

\_\_\_\_\_.

Accordingly, subject to the provisions of Section 6402 of the Internal Revenue Code, you are authorized and directed to cause the issuance of a refund of such tax, interest paid and penalty as you compute to be due under the issue(s) which (is) (are) being conceded, plus statutory interest. Please promptly forward to us three copies of your recomputation. Please request the Service Center to send us three copies each of the notice of adjustment and the statutory interest computation. The refund check(s) should be sent to this office for delivery in accordance with 26 C.F.R. 301.6402-2(f)(2).

[Plaintiff(s) [(has) (have) made] [(is) (are) likely to make] a claim for litigation costs under Section 7430 of the Internal Revenue Code. Please forward an analysis of the facts and law on this issue on or before (20 days hence) \_\_\_\_\_.]

[A copy of the portion of the administrative files needed to prepare the recomputation is enclosed.] [The administrative files will be returned to you upon final disposition of any claim for litigation costs pursuant to Section 7430.] [Your administrative files are transmitted herewith. Please return them to us with your analysis of the facts and law on the Section 7430 issue.] [Your administrative files are returned herewith.]

Sincerely yours,

[NAME OF ASSISTANT ATTORNEY GENERAL]  
Assistant Attorney General  
Tax Division

By:

[NAME OF CHIEF OF SECTION]  
Chief, \_\_\_\_\_ Section

Enclosures

[April 1995]

\_\_\_\_\_  
\*/ This paragraph should be inserted when a claim under Section 7430 has been made or it appears likely that such a claim will be made, and the Internal Revenue Service has not previously furnished an analysis of the issue.

\_\_\_\_\_  
\*/ This paragraph should be inserted when a claim under Section 7430 has been made or it appears likely that such a claim will be made, and the Internal Revenue Service has not previously furnished an analysis of the issue.